

# MICHIGAN STATE MEDICAL SOCIETY

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TO: The Senate Judiciary Committee

FROM: Daniel B. Michael, MD, PhD, President

RE: Opposition to Senate Bills 1561-1563

Senate Bills 1561-1563 mandate that physicians offer patients certain options related to the disposition of fetal remains. The position of the Michigan State Medical Society (MSMS) is based on technical elements of the bill that create uncertainty for physicians and expose physicians to potentially significant criminal penalties. The position of MSMS should not be construed as a position on the issue of abortion or in any way as a defense of any particular physician practice and its actions.

Senate Bill 1563 would require that physicians who are in attendance or immediately aware of a miscarriage inform the parents of state law regarding final disposition of fetal remains. The term "immediately aware" is not defined in statute. As miscarriages are not uncommon during a pregnancy, many occur outside of the institutional or clinical setting. Since "immediately aware" is not defined, the extent of the obligation for the physician to provide this information is ambiguous.

Senate Bill 1563 also creates a requirement for physicians to notify the "parents" of state law regarding final disposition of fetal remains. When multiple persons are given the ability to render health care decisions, it is frequently the case that consensus cannot be reached. Senate Bill 1563 is silent on situations in which the parents are not in agreement upon how to proceed. Furthermore, if the father is not present while the physician is in attendance or immediately aware of a miscarriage, what is the obligation of the physician to obtain the consent of the father?

Because Senate Bill 1563 is silent or ambiguous about certain details related to the implementation of this bill, and it is concerning that such significant criminal penalties are contained in Senate Bills 1561 and 1562. A class F felony punishable by up to 3 years in prison and/or a \$5000 fine is problematic given that multiple areas of Senate Bill 1563 could be considered subject to divergent interpretations by reasonable and well meaning professionals. For the aforementioned reasons, MSMS opposes Senate Bills 1561-1563.

